

## **REMARKS**

This application has been reviewed in light of the Office Action mailed December 29, 2010. Reconsideration of this application in view of the below remarks is respectfully requested. Claims 1 – 4, 6 – 17, 42 and 44 are pending in the application with Claims 1 and 44 being in independent form. By the present amendment, Claim 4 is amended. The amendment to Claim 4 is made to overcome an objection to the claim by clarifying which signal from Claim 1 controls the power supply control section. Therefore, no new subject matter is introduced into the disclosure by way of the present amendment.

### **I. Rejection of Claims 1, 4, 10 – 17 and 44 Under 35 U.S.C. § 103(a)**

Claims 1, 4, 10 – 17 and 44 are rejected under 35 U.S.C. § 103(a) as allegedly obvious over U.S. Patent No. 5,395,366 issued to D'Andrea, in view of U.S. Patent No. 6,632,175 issued to Marshall and U.S. Publication No. 2002/0042562 (hereinafter, “Meron”).

As recited in Claim 1, “...a plurality of the in-vivo information acquisition apparatuses are provided inside the body cavity, in which collecting the specimen by the specimen-collecting section is simultaneously started in response to a first command signal sent from the external apparatus to the plurality of the in-vivo information acquisition apparatuses; and the plurality of the in-vivo information acquisition apparatuses send the evaluation result and the identification information stored in the memory to the external apparatus in response to a second command signal sent from the external apparatus to the plurality of the in-vivo information acquisition apparatuses.” Additionally, “...an external apparatus outside the body cavity...acquires the evaluation result obtained by the in-vivo information acquisition apparatus via the communication section...” Similar features are recited in Claim 44.

D'Andrea discloses an ingestible capsule and process for sampling fluids in the alimentary canal with a remote actuatable sampling means. D'Andrea discloses that "...two or more capsules can be contained in the alimentary canal at the same time..." (See: D'Andrea col. 3, lines 42 – 43). The sampling means in D'Andrea operates as shown in FIG. 4 – 6 by drawing in fluids into a sampling compartment 6.

However, the capsule in D'Andrea does not have a reactor section where the sample is reacted with a reagent, nor is the sample evaluated by a specimen-evaluating section. Thus, D'Andrea fails to output an evaluation result that is sent to an external apparatus along with identification information stored in the memory of the capsule. Rather, the capsule would need to be retrieved from the alimentary canal and the sample contained therein analyzed using a separate system not disclosed in D'Andrea.

Marshall discloses an ingestible data recorder capsule medical device that senses and records information within a body. In Marshall, "Controller 54 regulates communication between sensors 50, 52, and memory 54, communication between memory 54 and any remote controllers outside of the human body, and communication with programmable logic component(s) 58." (See: Marshall col. 4, lines 61 – 64).

The sensors in Marshall are not specimen-collecting sections nor does Marshall provide a reactor section. Rather the sensors in Marshall are configured to detect environmental conditions such as pH, temperature or visual landmarks. The sensors are arranged about an outer surface of the capsule and exposed to the environment inside the lumen, thus it would be impossible to react the specimen with a reagent without introducing the reagent into the human body, which could result in non-desirable effects on the patient. Consequently, without the reactor section,

Marshall, even in combination with D'Andrea, fails to disclose or suggest "...evaluating measurement data of the specimen reacted in the reactor section based on reference data and outputting an evaluation result...[and] send the evaluation result and the identification information stored in the memory to the external apparatus in response to a second command signal..."

Meron discloses a system for monitoring a site in vivo having a housing configured to be immobilized in vivo. However, Meron fails overcome the deficiencies identified above in D'Andrea and Marshall.

Furthermore, Claims 4 and 10 – 17 depend from independent Claim 1, and thus include all the features recited in that independent claim.

Consequently, D'Andrea, Marshall and Maron, taken alone or in any proper combination fail to disclose the features recited in Claim 1. Therefore, for at least the reasons presented above, Claims 1, 4, 10 – 17 and 44 are believed to be allowable over the cited prior art references. Accordingly, Applicants respectfully request withdrawal of the rejection with respect to Claims 1, 4, 10 – 17 and 44 under 35 U.S.C. § 103(a) over D'Andrea in view of Marshall and Maron.

## **II. Rejection of Claims 2, 3 and 6 – 8 Under 35 U.S.C. § 103(a)**

Claims 2, 3 and 6 – 8 are rejected under 35 U.S.C. § 103(a) as allegedly obvious over D'Andrea in view of Marshall and Maron, and further in view of U.S. Publication No. 2001/0051766 (hereinafter, "Gazdzinski").

Claims 2, 3 and 6 – 8 depend from independent Claim 1 and thus includes all the features recited in that independent claim. Moreover, Gazdzinski fails to overcome the above-identified

deficiencies in D'Andrea, Marshall and Maron, whether taken alone or in any proper combination.

Therefore, for at least the reasons presented above, Claims 2, 3 and 6 – 8 are believed to be allowable over the cited prior art references. Accordingly, Applicants respectfully request withdrawal of the rejection with respect to Claims 2, 3 and 6 – 8 under 35 U.S.C. § 103(a) over D'Andrea in view of Marshall and Maron, and further in view of Gazdzinski.

### **III. Rejection of Claim 9 Under 35 U.S.C. § 103(a)**

Claim 9 is rejected under 35 U.S.C. § 103(a) as allegedly obvious over D'Andrea in view of Marshall and Maron, and further in view of U.S. Patent No. 7,063,671 issued to Couvillon.

Claim 9 depends from independent Claim 1 and thus includes all the features recited in that independent claim. Moreover, Couvillon fails to overcome the above-identified deficiencies in D'Andrea, Marshall and Maron, whether taken alone or in any proper combination.

Therefore, for at least the reasons presented above, Claim 9 is believed to be allowable over the cited prior art references. Accordingly, Applicants respectfully request withdrawal of the rejection with respect to Claim 9 under 35 U.S.C. § 103(a) over D'Andrea in view of Marshall and Maron, and further in view of Couvillon.

### **IV. Rejection of Claim 42 Under 35 U.S.C. § 103(a)**

Claim 42 is rejected under 35 U.S.C. § 103(a) as allegedly obvious over D'Andrea in view of Marshall and Maron, and further in view of U.S. Publication No. 2005/0148842 (hereinafter, "Wang").

Claim 42 depends from independent Claim 1 and thus includes all the features recited in that independent claim. Moreover, Wang fails to overcome the above-identified deficiencies in D'Andrea, Marshall and Maron, whether taken alone or in any proper combination.

Therefore, for at least the reasons presented above, Claim 42 is believed to be allowable over the cited prior art references. Accordingly, Applicants respectfully request withdrawal of the rejection with respect to Claim 42 under 35 U.S.C. § 103(a) over D'Andrea in view of Marshall and Maron, and further in view of Wang.

### **CONCLUSIONS**

In view of the foregoing amendments and remarks, it is respectfully submitted that all claims presently pending in the application, namely, Claims 1 – 4, 6 – 17, 42 and 44 are believed to be in condition for allowance and patentably distinguishable over the art of record.

If the Examiner should have any questions concerning this communication or feels that an interview would be helpful, the Examiner is requested to call Applicant's undersigned attorney at the number indicated below.

Respectfully submitted,

/Thomas Spinelli/

Thomas Spinelli  
Registration No. 39,533

Scully, Scott, Murphy, & Presser, P.C.  
400 Garden City Plaza, Suite 300  
Garden City, New York 11530  
(516) 742-4343  
TS/DAT:ch